

1. Overconfidence

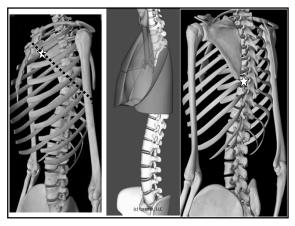
Not considering alternatives

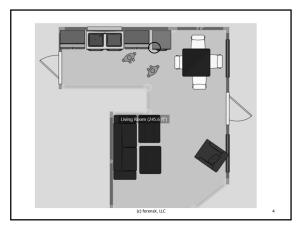
"Slam dunk"
confession
evidence

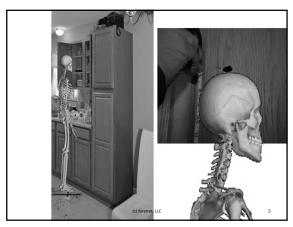
Significance of evidence
positive & negative

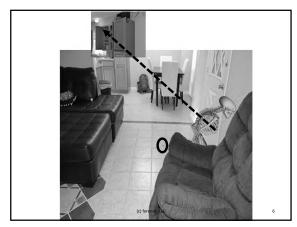
Alternate possibilities

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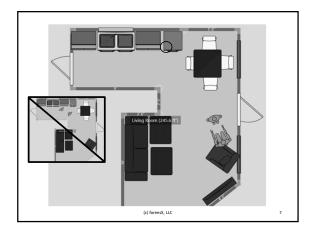








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2. Underconfidence

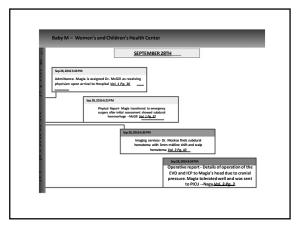
- Not trusting the experts
- You hire someone to do a job
- Understand your case

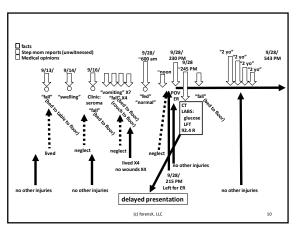
Understand experts

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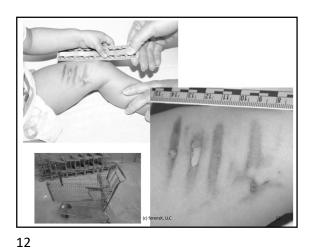
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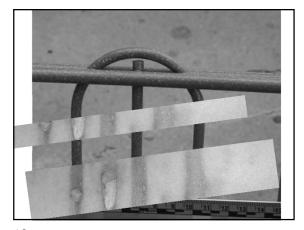
3. Cognitive biases

- Confirmation
- Overconfidence
- Anchoring effect
- Information & availability bias
- Tolerance to risk

May be associated diagnostic inaccuracies or suboptimal management

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4. Working with what you have

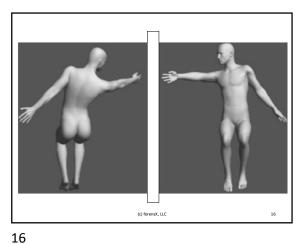
- Not everyone is an expert in everything
- You can't polish a turd

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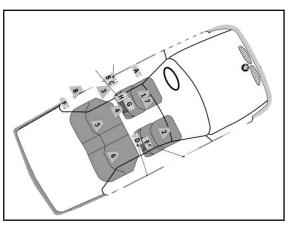
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5. "Experts"

 Are they qualified check licensure check boards

Anatomic Pathology Clinical Pathology

check training

Medical school

switches in career

• Are they experts – in that field?

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Forensic Pathology

17 18

"...After that, I actually started out in surgery. I did a year-and-a-half of <u>surgical residency</u>, after which I realized it wasn't the area of medicine I wanted to be in. So I transferred into <u>anatomic pathology</u> residency.... my pathology was in Long Island, and then I moved into New York City and I did <u>pediatric pathology fellowship</u> at NYU for a year, completed that, and then went to the medical examiner's office in New York City for a one-year <u>forensic pathology fellowship</u>. And then a second year, while acting as an associate medical examiner, I did a <u>forensic neuro and cardiology fellowship</u>. During that time, I passed the board examinations"

Manager 116

SN Ethan Tucker's and SN Ethan Kelch's Injuries

André Loyd, Ph.D.

Biomechanical Analysis of

19

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Biomechanics vs. Forensic Pathology

- Biomechanics apply the scientific method in order to test if their theory matches the injury
 - Identify the injury
 - Identify the injury mechanism(s)
 - Evaluate the theories of injuries
 - Magnitude and direction of force(s)
 - Establish if injury is consistent with theories
 - Compare to forces & motions needed to cause claimed injury

- Injury Reconstruction



SN Kelch's Injuries: Grouping of Injuries

• Face bruises and lacerations







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Was SN Kelch Strangulated?

Evidence against strangulation

1. Neck Injuries NOT present

No hyoid bone fracture

No petechiae bleeding on the skin No bruising to the neck

No thyroid injuries

No larynx Injuries No trachea Injuries

The force would be applied to this area

This area would need to be compressed 2. "Strap muscle (infrahyoid muscles) mostly free of traur

The force would be applied to this area
This area would need to be compressed

Larger Trackes







Disagreements with Dr.

SN Kelch sustained significant head injuries that could have him unconscious

Subgaleal hemorrhages do not guarantee unconsciousness

Injuries to recessed areas argues against simple fall

- All is needed is a small points of contact

No evidence SN Kelch knocked unconscious

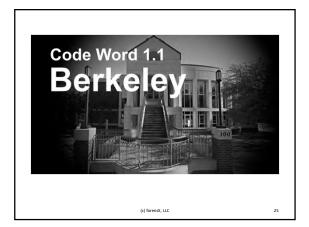
- Premises is wrong

· No recessed areas

• No simple fall



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6. Time

The singular most valuable commodity

- Investigations
- Investigators
- Medical Examiners

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EVIDENCE OF BLUNT FORCE INJURY

where the constraints of the co

Internal dissection of the scalp reveals subgaleal homorrhages of each lower right occipital scalp. There are numerous petechiae of the forehead parietal area of the scalp and into the temporals muscles. There is coalescent homorrhage of the right temporalis muscle. The skull is overall intact. The base of the skull is intact.

Upon opening of the head, there is loose blood most likely associated with the dural sinuses on the surfaces of the brain which is easily wiped. No subtranchnoid hemorrhage is seen. No subdural clust are seen. The brain is deeply congested and is cyanotic.

MCGC. The nock is titud: The spinal cord shows no transms. The extental surface of the neshows last imperficial admission, the case on the right adm in secured transplar points forward meaning if 12 by 10 is fine. These or some sign-pointed photoise is a other resourch forward meaning in 12 by 10 is fine. These or some sign-pointed photoise is a other resourch admission researching in 2 pageings 7.5 y 1 is not in a common significant pointed produced by the properties of the size of the common significant pointed pointed pointed produced produc

TRUNK: The trunk is significant for four nearly parallel reddish, steak-like containers of the supper abdornon and lower chost area measuring in aggregate 3 1/4 by 1 1/8 inches. To

appel enfolds impression of the formal jet inter stall measuring 2 to 1 lands. There are infrigure to 10 mals post commission of the last himsel big. The skin of the basis shows a sequen-shaped, big 2 web, provided encouraged abstracts just always the places field and slightly to the life in a provided excessional places in measuring 2 let be 1 lands. These per becoming place fields insect statement of each producers law, One measurest 1 and its laught on the last side and the other

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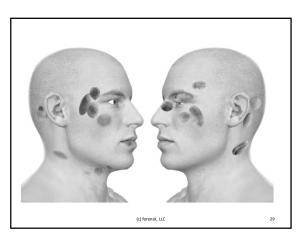
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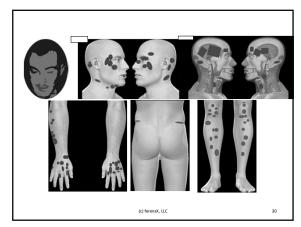
shows a 1 inch purple-reddish shraded contaxion. The skin of the left knee shows a cluster on diship-tisk shrasions measuring approximately 1/2 such each covering an area 3 by 1 1/2 inches. Supplying inferior is a 1 inc., pick encludes contaxion. On the setretor thild surface area 1/2 inche 1/2 or 1/2 inches. No obvious futures are detail contaxion measuring approximately 1 3/2 inches. No obvious futures are detailed on the extremelies.

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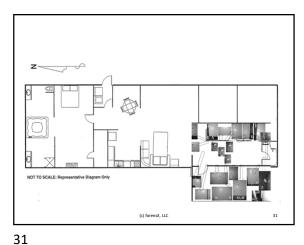
Hose ... middle infraction & contained

- surprising and surprisin





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7. Resources

• Staffing quality & quantity experience

• Case volume



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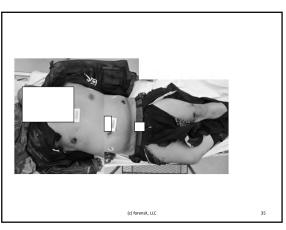
8. Testimony

• Not all witnesses are created equal expertise experience communicationpreparation

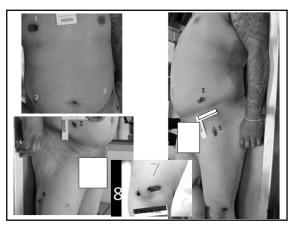
• Human nature

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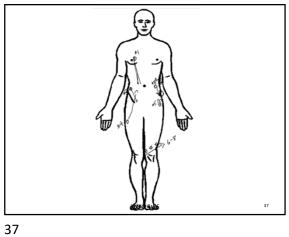


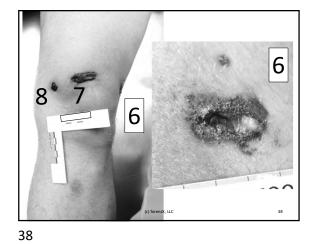
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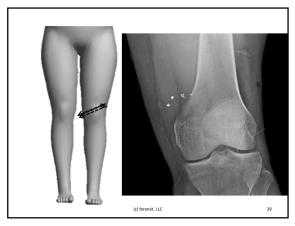


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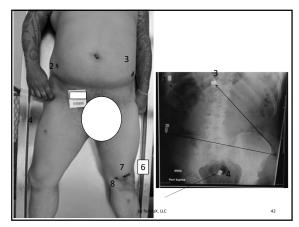


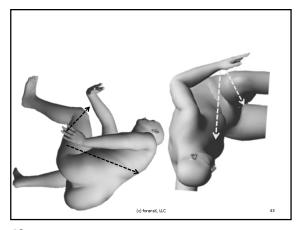












9. Scientists

- Sounds good, but...
- Are they?

science:

intellectual & practical activity encompassing systematic study of the structure & behaviour of physical & natural world through observation & experiment

ASCLD/ASCLD-LAB "Crime Lab" (but we're not biased!)

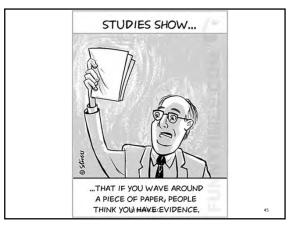
promote, encourage, & maintain highest practice standards SOP manuals (?cookbook - cook vs. chef) 9 essential elements represent critical path toward accreditation,

improves compliance with industry best practices, promotes standardization, &

improves quality of services provided

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10. Just flat out wrong

· Make sure it's a homicide

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The whole story

Elgerie Cash and Jennifer Weathington - State: GA - Date of Exoneration: 5/1/2019 Elgerie Cash and her daughter, Jennifer Weathington, both of Dallas, Georgia, were convicted in 2013 of murder in the death of Weathington's boyfriend, Lennis Jones. Their convictions were overturned in 2014 because of ineffective assistance of counsel, and they were acquitted at a retrial in 2019 based on evidence that the victim had shot himself.

2:30 m Figeria 63th (45 no) = 911 call Ballas, GA
 Daughter's boyfriend accidental GSW

- First responders (Sheriff) arrived within 2 minutes
- Upstairs bedroom Jennifer Weathington (19 yo) cradling "Donny" Jones (44 yo) bleeding head
- · Paramedics quickly arrived

• Died hours later



• Cash – Sheriff interview new .40 caliber Glock accidental discharge (one shot → two shots) showing off weapon racked slide Jones grabbed weapon "It's not loaded now" saw remaining round "still loaded" • Sheriff's office – investigated as accident called 911 immediately gave aid to Jones gave consistent statements seemed appropriately shaken

Autopsy

- 1 June 2011 Dr. Jon Eisenstat (Assistant ME GBI)
- ~45 minutes exam
- Initial report suggested not self-inflicted no stippling ≥ 18 inches away

high velocity blood spatter on hand • Sheriff's Office

surprised confirm with Chief ME (Dr. Kris Sperry)

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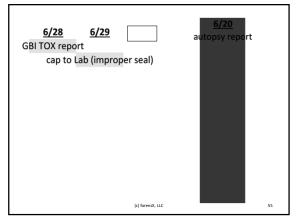


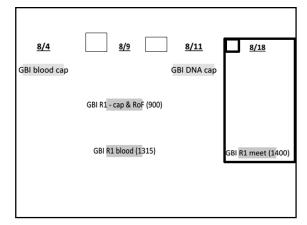


Autopsy GSW head BAL 0.190 • Inconsistency: Cash – shot to temple autopsy: entry behind right ear blood spatter: high velocity <u>6/1</u> x-rays photos (736-901) exam (945) call - suspicious (945) photos (1038-1054)

<u>6/6</u> 6 June 2011 Search warrant Jones' baseball cap (laundry room) scene photos – on bedroom dresser (partially obscured by latex gloves) missed during initial crime-scene examination hole matched entry wound traces of Jones's blood inside • ME opinion interview (1832) two months later lack substantial blood - unlikely Jones wearing firearms analysis - range (c) forensX, LLC

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19 December 2011

- Arrested
- Charged malice murder felony murder aggravated assault



firearm possession during felony

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Mother, daughter charged with murder

Updated: Dec 20, 2011 - 2:56 PM

· Neighbors remember a lot of drama "They were just very argumentative.... I guess (there were) a lot of domestic disturbances over there. Cops would come over very frequently."

• neighbor ... heard the gunshot that day & saw Cash running out of the house screaming a few seconds later. "I am shocked despite the drama.... You don't expect that from someone, especially that close by."

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> Mother, Daughter Charged with Murder By Jon Gargis (Patch Staff) - Updated Dec 20, 2011 7:17 pm ET

- U.S. Marshal's Service Southeast Regional <u>Fugitive</u> Task Force arrested
- Each face a felony murder charge

"We waited on autopsy results, consulted with the medical examiner, there were some inconsistencies with evidence at the scene and evidence with the individual that was murdered"

Case remained open since it began

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- "...we've been sorting out some inconsistencies in the case, and as the result of a thorough investigation
 - we've finally been able to get murder warrants."

• Officials didn't want to rule out any possibilities, whether it be "suicide, murder or accidental or whatever....

In their investigation, they realized they had enough then

to believe it was a murder."

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Mother, daughter charged with murder

"With the arrest of a mother and daughter, Paulding County Sheriff's deputies believe they've solved a sevenmonth-old murder that initially looked like a suicide."

- ...detectives were not convinced & launched an exhaustive investigation that ...included GBI" "It was a very in depth investigation...."
- "They worked closely & examined evidence at the scene, the autopsy report from the medical examiner's office. All those things led them to an arrest."

"Deputies are not releasing why they think the mother and daughter committed the crime, but do confirm that Jones was living in Cash's house and was romantically involved with Cash's daughter."

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Let's Make a Deal

• Weathington offer:

testify against mother plead to tampering with evidence (no prison)

Rejected

Defense Counsel

- Weathington John Rife, Esq. (court-appointed)
- Cash -

Lee Sexton, Esq. (conflict) - paid up front Thomas Ford, Esq.

Prosecutors

theory of crime - nebulous unclear who pulled trigger Cash's gun - clearer connection

• Rife's investigator - ?Ford

Ford wouldn't take Cash's calls help him serve subpoenas appeared disinterested in Rife's firearms report

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14 October 2014 Trial

• Jury selection

Cash's ex-husband Cash objected to Ford

Ford: "Shut, the fuck up, bitch."

• Ford's conduct erratic throughout

cursed (jurors asked Judge to make him stop) mocked witness' voice (throat cancer) appeared to fall asleep at times appeared to have brought few (if any) files asked to use Rife's materials

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State's case

Motive

Jones & Cash friends since teenagers lived together 3 years

recent rift – dating Weathington (25 yr gap)
Jones' co-worker testified – young woman called about life insurance

Physical & forensic evidence ME (critical)

absence of stippling around entry spatter on hands from head wound

cross – formed final opinion before studying hat Firearms Examiner

~2-3 inches range of fire

Bullet trajectory fired from hip at ~2 feet distance (self-inflicted)

did not concede Jones wearing hat

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Firearms

State's scenario

one woman shot Jones shot fired bullet through hat deposit fine blood mist inside hat

District Attorney Donald Donovan

"I also cannot explain how Donny Jones' hat got a bullet hole in it. But you know what? I don't have to explain that."

· Rife's firearms expert

favorable to womer never called to testify

concern testimony might be more helpful to Cash (not Rife's client)

Ford (closing)

destroyed state's evidence (DVDs)

put on Jones' hat & summoned Jones to speak to Cash

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Outcome

- Judge reminded jurors serious work
- Cash & Weathington guilty (25 October 2013) all charges

each - life in prison

• Jurors ran out courthouse to avoid Ford

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Appeals

"Here, there is no evidence of conduct before, during, or after the shooting that one defendant intentionally aided or abetted the other or intentionally advised, encouraged, hired, counseled, or procured the other to commit murder."

"Even when the evidence is legally sufficient to sustain a conviction, a trial judge may grant a new trial if the verdict of the jury is 'contrary to...the principles of justice and equity,' or if the verdict is 'decidedly and strongly against the weight of the evidence."

THE STRIEV CASH ET AL (SUZAIOSS) Oct 2017

...evidence, while not conclusive,

did establish common criminal intent.

April 2019 Retrial

- New attorneys (Keenan Parsons, Esq.& Aaron Henrickson, Esq.)

Witnesses Dr. Terry Dr. Downs

state had approached him to testify 29-page report

blood spatter

lack of stippling

lack of brain matter inside hat

scene

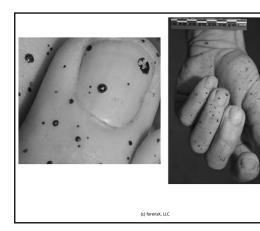
cognitive bias

ME: erred regarding blood on hands (aspiration)

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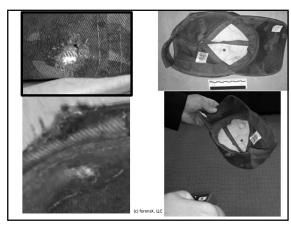


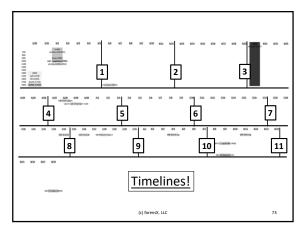


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Outcome

- Jones substantial gunpowder residue right hand
- Jones' son:

dad was left-handed (first trial) firearms safety

- Ordinarily left handed
 - used right hand for many tasks
- at least once prior fired pistol right-handed
- Hunting buddy:
 - told investigators Jones was right-handed
- 1 May 2019: acquitted all charges
- No compensation

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Lessons?

 Don't accept the easy answer
 "The road to the truth may be lonely, but the view is great and the destination worthy."

• It's only impossible if it didn't happen

Dr. Jamie Downs 912-507-1008 forensX@comcast.net

South Carolina Public Defenders Association

Annual Conference Monday, 21 September 2020